



City of Seattle

Department of Planning and Development
D. M. Sugimura, Director

CITY OF SEATTLE ANALYSIS AND DECISION OF THE DIRECTOR OF THE DEPARTMENT OF PLANNING AND DEVELOPMENT

Project Number: 3014321
Applicant Name: Ivar Michelsons
Address of Proposal: 5615 Seaview Avenue NW

SUMMARY OF PROPOSAL

Shoreline Substantial Development Application to allow a 166 sq. ft. addition to existing single family residence within existing footprint.

The following approvals are required:

Shoreline Substantial Development Permit – (SMC Chapter 23.60) to allow an addition in a US Urban Stable (US) shoreline environment to an existing single family residence.

SEPA Environmental Threshold Determination - (SMC Chapter 25.05)

SEPA DETERMINATION: ☐ Exempt ☐ DNS ☐ MDNS ☐ EIS

☒ DNS with conditions

☐ DNS involving non-exempt grading, or demolition, or involving another agency with jurisdiction.

Site and Vicinity

The subject site is approximately 1,400 sq. ft. and is located on the west side of Seaview Avenue NW on Shilshole Bay. The site is zoned Commercial 1 with a 30-foot height limit (C1-30) and is within an Urban Stable (US) Shoreline Environment. The entire site is located over water.

The site is developed with an existing single family residence. A substantial portion of the existing house and deck is east of the east property line of the site. This land is managed by SDOT and includes land formerly owned by the Burlington Northern and Santa Fe Railway Company. Access to the site from Seaview Ave NW is over this SDOT managed property, from access points north and south of the site. Development in the vicinity consists mostly of single family residential uses.

Project Description

The existing three level single-family residence is built on a deck structure over water. A second deck at the main (middle) level surrounds the west, north and east sides of the residence. A stair from dry land above and to the east accesses this deck and the main entry.

The project is proposing to enclose approximately 44 sq. ft. of space at the lower level and deck, enclose approximately 24 sq. ft. of deck at the main level, and change the roof line to provide 98 sq. ft. of living space at the loft level. As part of this project the residence and decks will undergo a major remodel, with new decking, siding, windows, roofing and interior work. A related building permit #6339710 for the work has the following description; "Structural alteration, repair and replacements to existing SFR located over water with no change to configuration per MUP #3014321, former structural improvements per 6320919 and per plans."

As noted above, a substantial portion of the residence, two decks and access stair are located outside of the property lot lines and on SDOT managed land or right-of-way. DPD cannot issue a permit for work outside of the project site. The applicant has been in contact with SDOT and has obtained a SDOT permit for the residence and deck to be maintained in the right-of-way. A separate construction permit granted by SDOT will be needed for all work done in the right-of-way.

Public Comment

The public comment period ended on December 28, 2012. No public comments were received.

ANALYSIS — SHORELINE SUBSTANTIAL DEVELOPMENT PERMIT

Section 23.60.030 of the Seattle Municipal Code provides criteria for review of a shoreline substantial development permit and reads: A substantial development permit shall be issued only when the development proposed is consistent with:

- A. *The policies and procedures of Chapter 90.58 RCW;*
- B. *The regulations of this Chapter; and*
- C. *The provisions of Chapter 173-27 WAC.*

Conditions may be attached to the approval of a permit as necessary to assure consistency of the proposed development with the Seattle Shoreline Master Program and the Shoreline Management Act.

A. The Policies and Procedures of Chapter [90.58 RCW](#)

Chapter 90.58 RCW is known as the Shoreline Management Act of 1971. It is the policy of the State to provide for the management of the shorelines of the state by planning for and fostering all reasonable and appropriate uses. This policy contemplates protecting against effects to public

health, the land use and its vegetation and wild life, and the waters of the state and their aquatic life, while protecting public right to navigation and corollary incidental rights. Permitted uses in the shoreline shall be designed and conducted in a manner to minimize, insofar as possible, any resultant damage to the ecology and environment of the shoreline area and any interference with the public's use of the water.

B. The Regulations of this Chapter

The Shoreline Management Act provides definitions and concepts, and gives primary responsibility for initiating and administering the regulatory program of the Act to local governments. The Department of Ecology is to primarily act in a supportive and review capacity, with primary emphasis on insuring compliance with the policy and provisions of the Act. As a result of this Act, the City of Seattle and other jurisdictions with shorelines, adopted a local shoreline master program, codified in the Seattle Municipal Code at Chapter 23.60. Development on the shorelines of the state is not to be undertaken unless it is consistent with the policies and provisions of the Act, and with the local master program. The Act sets out procedures, such as public notice and appeal requirements, and penalties for violating its provisions.

In evaluating requests for substantial development permits, the Director must determine that a proposed use and subsequent development meets the relevant criteria set forth in the Land Use Code. The Shoreline Goals and Policies, part of the Seattle [Comprehensive Plan](#), and the purpose and location criteria for each shoreline environment must be considered. A proposal must be consistent with the general development standards of SMC [23.60.152](#), the specific standards of the shoreline environment (SMC 23.60.600) and underlying zoning designation, any applicable special approval criteria, and the development standards for specific uses.

Seattle Comprehensive Plan - Shoreline Policies

The proposal is subject to the Shoreline Policies of SMC 23.60.004 because the site is located within the shoreline district and the cost of the project exceeds \$6,614. The proposed development has been designed to ensure minimum impact to the public health, land and waters of the state, and their aquatic life. The location of the proposed work on the shoreland will not interfere with the public rights of navigation and corollary rights, thus providing for the management of the shorelines by planning for and fostering all reasonable and appropriate uses. Therefore, the subject application is consistent with the procedures outlined in RCW 90.58.

The proposed project must meet the standards of the underlying Commercial 1-30 zone, the general development standards for all shoreline environments (SSMP 23.60.152) and the development standards for the US shoreline environment (SSMP 23.60.630). The Director may attach to the permit or authorize any conditions necessary to carry out the spirit and purpose of, and ensure the compliance with, the Seattle Shoreline Master Program (SSMP 23.60.064).

A. THE REGULATIONS OF CHAPTER 23.60

Chapter 23.60 of the Seattle Municipal Code is known as the "Seattle Shoreline Master Program." In evaluating requests for substantial development permits, the Director must determine that a proposed use meets the approval criteria set forth in SMC 23.60.030 (cited

above). Development standards of the shoreline environment and underlying zone must be considered, and a determination made as to any special requirements (shoreline conditional use, shoreline variance, or shoreline special requirements use permit) or conditioning that is necessary to protect and enhance the shorelines area (SMC 23.60.064).

Pursuant to SMC 23.60.064C, in evaluating whether a development which requires a substantial development permit, conditional use permit, variance permit or special use authorization meets the applicable criteria, the Director shall determine that the proposed use: 1) is not prohibited in the shoreline environment and the underlying zone and; 2) meets all applicable development standards of both the shoreline environment and underlying zone and; 3) satisfies the criteria for a shoreline variance, conditional use, and/or special use permits, if required.

Development Standards

The proposal is permitted outright in SMC 23.60.600 governing the US (Urban Stable) shoreline environment and is therefore subject to:

1. *the general development standards for all shoreline environments (SMC 23.60.152); as well as*
2. *the development standards for uses in the US environment (SMC 23.60.630).*

1. General Development Standards for all Shoreline Environments (SMC 23.60.152)

All uses and developments shall be subject to the following general development standards:

- A. *The location, design, construction and management of all shoreline developments and uses shall protect the quality and quantity of surface and ground water on and adjacent to the lot and shall adhere to the guidelines, policies, standards and regulations of applicable water quality management programs and regulatory agencies. Best Management Practices such as paving and berming of drum storage areas, fugitive dust controls and other good housekeeping measures to prevent contamination of land or water shall be required.*
- B. *Solid and liquid wastes and untreated effluents shall not enter any bodies of water or be discharged onto the land*
- C. *Facilities, equipment and established procedures for the containment, recovery and mitigation of spilled petroleum products shall be provided at recreational marinas, commercial moorage, vessel repair facilities, marine service stations and any use regularly servicing vessels.*
- D. *The release of oil, chemicals or other hazardous materials onto or into the water shall be prohibited. Equipment for the transportation, storage, handling or application of such materials shall be maintained in a safe and leak proof condition. If there is evidence of leakage, the further use of such equipment shall be suspended until the deficiency has been satisfactorily corrected.*
- E. *All shoreline developments and uses shall minimize any increases in surface runoff, and control, treat and release surface water runoff so that receiving water quality and shore properties and features are not adversely affected. Control measures may include, but are not limited to, dikes, catch basins or settling ponds, interceptor drains and planted buffers.*

- F. All shoreline developments and uses shall utilize permeable surfacing where practicable to minimize surface water accumulation and runoff.*
- G. All shoreline developments and uses shall control erosion during project construction and operation*
- H. All shoreline developments and uses shall be located, designed, constructed and managed to avoid disturbance, minimize adverse impacts and protect fish and wildlife habitat conservation areas including, but not limited to, spawning, nesting, rearing and habitat areas, commercial and recreational shellfish areas, kelp and eel grass beds, and migratory routes. Where avoidance of adverse impacts is not practicable, project mitigation measures relating the type, quantity and extent of mitigation to the protection of species and habitat functions may be approved by the Director in consultation with state resource management agencies and federally recognized tribes.*
- I. All shoreline developments and uses shall be located, designed, constructed and managed to minimize interference with or adverse impacts to beneficial natural shoreline processes such as water circulation, littoral drift, sand movement, erosion and accretion.*
- J. All shoreline developments and uses shall be located, designed, constructed and managed in a manner that minimizes adverse impacts to surrounding land and water uses and is compatible with the affected area.*
- K. Land clearing, grading, filling and alteration of natural drainage features and landforms shall be limited to the minimum necessary for development. Surfaces cleared of vegetation and not to be developed shall be replanted. Surface drainage systems or substantial earth modifications shall be professionally designed to prevent maintenance problems or adverse impacts on shoreline features.*
- L. All shoreline development shall be located, constructed and operated so as not to be a hazard to public health and safety.*
- M. All development activities shall be located and designed to minimize or prevent the need for shoreline defense and stabilization measures and flood protection works such as bulkheads, other bank stabilization, landfills, levees, dikes, groins, jetties or substantial site regrades.*
- N. All debris, overburden and other waste materials from construction shall be disposed of in such a way as to prevent their entry by erosion from drainage, high water or other means into any water body.*
- O. Navigation channels shall be kept free of hazardous or obstructing development or uses.*
- P. No pier shall extend beyond the outer harbor or pierhead line except in Lake Union where piers shall not extend beyond the Construction Limit Line as shown in the Official Land Use Map, Chapter 23.32, or except where authorized by this chapter and by the State Department of Natural Resources and the U.S. Army Corps of Engineers.*

The proposal meets the applicable general development standards for the shoreline environment.

2. Development Standards for US Shoreline Environments (SMC 23.60.630)

The development standards set forth in the Urban Stable (US) Shoreline Environment relate to critical habitat protection, height, maximum size limits, lot coverage, view corridors, location of uses, and public access. The proposal conforms to all applicable development standards for the US environment

SMC 23.60.600 – Uses Permitted Outright in the US Environment

The existing over water single-family residence is consistent with allowed uses in the Urban Stable environment.

B. THE PROVISIONS OF CHAPTER 173-27 WAC

WAC 173-27 establishes basic rules for the permit system to be adopted by local governments, pursuant to the language of RCW 90.58. It provides the framework for permits to be administered by local governments, including time requirements of permits, revisions to permits, notice of application, formats for permits, and provisions for review by the state's Department of Ecology (DOE). As the Seattle Shoreline Master Program has been approved by DOE, consistency with the criteria and procedures of the SMC Chapter 23.60 is also consistency with WAC 173-27 and RCW 90.58.

Summary

Development requiring a Shoreline Substantial Development Permit can only be approved if it conforms to the policies and procedures of the WAC and RCW and with the regulations of Chapter 23.60 of the Seattle Shoreline Master Program.

The project as proposed meets the specific standards for development in the US environment. It also conforms to the general development standards, as well as the requirements of the underlying zone.

The Director's authority under Seattle's Shoreline Master Program is to ensure that development proposals are consistent those policies and procedures, and conforms to specific development standards of the underlying zones. Thus, as conditioned below, the proposal is consistent with the criteria for a shoreline substantial development permit and may be approved.

DECISION - SHORELINE SUBSTANTIAL DEVELOPMENT PERMIT

The Shoreline Substantial Development Permit is **CONDITIONALLY GRANTED** subject to the conditions listed at the end of this report.

ANALYSIS - SEPA

Environmental review resulting in a Threshold Determination is required pursuant to the Seattle State Environmental Policy Act (SEPA), WAC 197-11, and the Seattle SEPA Ordinance (Seattle Municipal Code Chapter 25.05)

The initial disclosure of the potential impacts from this project was made in the environmental checklist submitted by the applicant on November 20, 2012. The Department of Planning and Development has analyzed and annotated the environmental checklist submitted by the project applicant; reviewed the project plans and any additional information in the file and any pertinent comments which may have been received regarding this proposed action have been considered. As indicated in the checklist, this action may result in adverse impacts to the environment.

However, due to their temporary nature or limited effects, the impacts are not expected to be significant.

The SEPA Overview Policy (SMC 25.05.665) clarifies the relationship between codes, policies, and environmental review. Specific policies for each element of the environment, and certain neighborhood plans and other policies explicitly referenced, may serve as the basis for exercising substantive SEPA authority. The Overview Policy states, in part, *“Where City regulations have been adopted to address an environmental impact, it shall be presumed that such regulations are adequate to achieve sufficient mitigation”* subject to some limitations.

Codes and development regulations applicable to this proposed project will provide sufficient mitigation for short and/or long term impacts. Applicable codes may include the Stormwater Code (SMC 22.800-808), the Grading Code (SMC 22.170), the Street Use Ordinance (SMC Title 15), the Seattle Building Code, and the Noise Control Ordinance (SMC 25.08). Puget Sound Clean Air Agency regulations require control of fugitive dust to protect air quality.

Short Term Impacts

The following temporary or construction-related impacts are expected: decreased air quality due to increased dust and other suspended air particulates during transport of materials to and from the site; increased noise and vibration from construction operations and equipment; increased traffic and parking demand from construction personnel traveling to and from the work site; consumption of renewable and non-renewable resources; disruption of utilities serving the area; and conflict with normal pedestrian movement adjacent to the site. Compliance with applicable codes and ordinances will reduce or eliminate most adverse short-term impacts to the environment.

Greenhouse Gas Emissions - Construction activities including construction worker commutes, truck trips, the operation of construction equipment and machinery, and the manufacture of the construction materials themselves result in increases in carbon dioxide and other greenhouse gas emissions which adversely impact air quality and contribute to climate change and global warming. While these impacts are adverse, they are not expected to be significant due to the relatively minor contribution of greenhouse gas emissions from this project.

Water Quality Impacts

There is the potential for construction debris to enter the water during construction, so care will be taken to prevent this from occurring. Therefore, the project will be conditioned to include Best Management Practices (BMPs) to be employed during construction. While these impacts are adverse, they are not expected to be significant and do not warrant mitigation under SEPA.

Long Term Impacts

Long term or use-related impacts are also anticipated as a result of this proposal. Compliance with applicable codes and ordinances will reduce or eliminate most adverse long-term impacts to the environment.

Greenhouse Gas Emissions - Operational activities, primarily vehicular trips associated with the project and the projects' energy consumption, are expected to result in increases in carbon dioxide and other greenhouse gas emissions which adversely impact air quality and contribute to climate change and global warming. While these impacts are adverse, they are not expected to be significant due to the relatively minor contribution of greenhouse gas emissions from this project.

DECISION – SEPA

This decision was made after review by the responsible official on behalf of the lead agency of a completed environmental checklist and other information on file with the responsible department. This constitutes the Threshold Determination and form. The intent of this declaration is to satisfy the requirement of the State Environmental Policy Act (RCW 43.21.C), including the requirement to inform the public of agency decisions pursuant to SEPA.

☒ Determination of Non-Significance. This proposal has been determined to not have a significant adverse impact upon the environment. An EIS is not required under RCW 43.21.030(2) (c).

The lead agency for this proposal has determined that it does not have a probable significant adverse impact on the environment. An environmental impact statement (EIS) is not required under RCW 43.21C.030 (2)(c). This decision was made after review of a completed environmental checklist and other information on file with the lead agency. This information is available to the public on request.

This DNS is issued after using the optional DNS process in WAC 197-11-355 and Early review DNS process in SMC 25.05.355. There is no further comment period on the DNS.

SEPA AND SHORELINE CONDITIONS

The following conditions to be enforced during construction shall be posted at the site in a location on the property line that is visible and accessible to the public and to construction personnel from the street right-of-way. If more than one street abuts the site, conditions shall be posted at each street. The conditions will be affixed to placards prepared by DPD. The placards will be issued along with the building permit set of plans. The placards shall be laminated with clear plastic or other waterproofing material and shall remain posted on-site for the duration of the construction.

The owner(s) and/or responsible party(s) shall:

Prior to Issuance of a Construction Permit

- I.** Develop a Best Management Practices (BMP) Plan that indicates how construction will take place to ensure that no debris or deleterious material enters the water through the duration of the proposed work.

Standard best management practices (BMPs) (such as using secondary receptacle containers when handling toxic material so that any spilled material is contained in the second receptacle rather than entering the water and using toxic material so that none of this material enters the water) shall be used to ensure that no petroleum products, other toxic substances, including household chemicals, herbicides pesticides, chemical fertilizers, miscellaneous debris and/or other deleterious materials are allowed to enter or leach into the water.

Prior to Commencement of Construction

2. Notify in writing all contractors and sub-contractors of the following general requirements of the Shoreline Master Program (SSMP 23.60.152):
 - a) The location, design, construction and management of all shoreline developments and uses shall protect the quality and quantity of surface and ground water on and adjacent to the lot and shall adhere to the guidelines, policies, standards, and regulations of water quality management programs and regulatory agencies.
 - b) Best Management Practices shall be employed during the proposed over-water work as necessary to keep debris and deleterious material out of the water. The contractor shall include on the plans a written description of the BMPS that will be used during the proposed work.
 - c) An emergency containment plan and procedures shall be developed for all toxic material that will be kept on site. All necessary equipment for containment and clean-up of this toxic material shall be stocked on the site. A sufficient number of personnel that will be on-site during construction shall be trained in the proper implementation of this plan.
 - d) Equipment for the transportation, storage, handling and application of oil, chemicals, or other hazardous materials shall be maintained in a safe and leak-proof condition to prevent release of this material into the water.

During Construction

3. The owner(s), builder(s), or responsible party(s) shall follow the Best Management Practices and the Emergency Containment plans developed to prevent debris and other deleterious material from entering the water during construction.
 - a. If floating debris enters the water during the proposed work this debris shall be removed immediately and stored until it can be disposed of at an appropriate upland facility.
 - b. If heavy (sinking) debris enters the water during the proposed work the location of the debris shall be documented in a log that is kept on site for the duration of the construction work. When construction is complete a diver shall retrieve all debris that has entered the water and sunk during the proposed work.

4. Equipment using oil, gasoline, or diesel used on site shall be checked daily for evidence of leakage, if evidence of leakage is found, further use of such equipment shall be suspended until the deficiency has been satisfactorily corrected.

For Life of Project

5. All exterior light fixtures shall be fully shielded to prevent light spillage beyond the perimeter of the residence and shall use low-wattage light bulbs.
6. If treated wood is proposed for the project, this wood shall be professionally treated and completely cured using the best management practices developed by the Western Wood Preservers Institute (<http://www.wwpinstitute.org/>) before this wood is used for this project.

Signature: _____ (signature on file) Date: August 29, 2013
Beth Hartwick, Land Use Planner
Department of Planning and Development

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